Remarks

In the present response, claims 1 – 43 are presented for examination.

Oath/Declaration

Applicants acknowledge that the name of the applicant Caroline M. Tice is incorrectly spelled on the declaration (namely, the last name is misspelled as "Tic" instead of "Tice"). Caroline M. Tice, however, did correctly sign her last name with an "e" as Tice.

The declaration contains a typographical error in the spelling of applicant Tice. According to MPEP 605.04(b), a petition or new oath/declaration is not required:

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

For the record, Applicants note that the declaration contains a typographical error in the spelling of the last name of applicant Tice. The correct spelling is Caroline M. Tice.

Specification

Page 13 of the specification is amended to insert the serial numbers and filing dates of several references incorporated by reference.

Claim Rejections: 35 USC § 102(e)

Claims 1-3, 10-13, 15-23, 27-28, 30-34, 39, and 41-43 are rejected under 35 USC § 102(e) as being anticipated by USPN 6,698,017 (Adamovits). These rejections are traversed.

Each of the claims recites numerous recitations that are not taught or even suggested in Adamovits. Some examples are provided below for the independent claims.

Claim 1

As one example, claim 1 recites the following:

> running a first operating system instance on the virtual machine monitor;
>
> configuring hardware to trap instructions executed by the first operating system instance;
>
> simulating trapped instructions with the virtual machine monitor;

Adamovits does not discuss running the first operating system instance "on" the virtual machine monitor. In fact, Adamovits teaches away from this element. Adamovits teaches that after the original or replacement software is loaded, "the virtual machine 30 is inactive or not present so that as much of the CPU time of the processor 12 as possible is available ..." (see Adamovits at col. 6, lines 24-31).

Further, Admovits is completely silent on configuring hardware to trap instructions or simulating the trapped instructions with the virtual machine monitor. Nowhere does Adamovits even suggest trapping instructions with an OS instance and then simulating the trapped instructions with the virtual machine monitor.

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed (see *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985)). For at least these reasons, claim 1 and its dependent claims are not anticipated by Adamovits.

Claim 21

As one example, claim 21 recites "wherein the virtual machine monitor configures hardware to trap privileged instructions to create an illusion that the first instance has control of the hardware." Nowhere does Adamovits teach or even suggest that the virtual machine monitor configures hardware to trap privileged instructions. Further, Adamovits does not teach or even suggest that instructions are trapped to create an illusion that an instance of an operating system has control of hardware.

In order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). For at least these reasons, claim 21 and its dependent claims are not anticipated by Adamovits.

Claim 33

As one example, claim 33 recites "wherein the virtual machine monitor configures hardware to trap instructions to create an illusion that the first instance has control of the hardware." Nowhere does Adamovits teach or even suggest that the virtual machine monitor configures hardware to trap instructions. Further, Adamovits does not teach or even suggest that instructions are trapped to create an illusion that an instance of an operating system has control of hardware.

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed (see *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985)). For at least these reasons, claim 33 and its dependent claims are not anticipated by Adamovits.

Claim Rejections: 35 USC § 103(a)

Claims 4-9, 24-26, and 35-37 are rejected under 35 USC § 103(a) as being unpatentable over Adamovits in view of US publication number 2002/0069369 (Tremain). These rejections are traversed.

As noted above, Adamovits does not teach or even suggest all the elements of independent claims 1, 21, and 33. Tremain does not cure these deficiencies. Dependent claims 4-9, 24-26, and 35-37 are allowed for at least these reasons.

CONCLUSION

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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